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## **STAFF COMMENTS FOR PLANNING COMMISSION**

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**MEETING DATE:** June 7, 2006

**TEXT AMENDMENT:** **T-375**

**TITLE:** **I-1 & I-3 Zones**

**REQUEST:** **RECOMMENDATION TO M&CC**

**ADDRESS:** N/A

**ZONE:** I-1 (Light Industrial) Zone  
I-3 (Industrial and Office Park) Zone

**APPLICANT/REPRESENTATIVE/ATTORNEY/DEVELOPER:** (as applicable)

**STAFF PERSON:** Greg Ossont, Director  
Planning and Code Administration

**Enclosures:**

Staff Comments

- Exhibit 2: Draft Text Amendment Ordinance
- Exhibit 6: Joint Public Hearing Cover Sheet, January 17, 2006
- Exhibit 7: Letter from David Fink, Finmarc Management for Edison Tech LLC
- Exhibit 8: Email from Richard Arkin dated January 17, 2006
- Exhibit 9: January 17, 2006 Joint Public Hearing Draft Minutes
- Exhibit 10: Joint Work Session Cover Sheet and Background Materials, September 12, 2005

## STAFF COMMENTS

A joint work session has held on September 12, 2005. A joint public hearing was held on January 17, 2006. The Planning Commission's record was held open until May 30, 2006 and is now closed. There are ten exhibits in the record including background material from the joint work session and the joint public hearing.

Text Amendment T-375 is an ordinance to amend Chapter 24 of the City Code ( Zoning Ordinance), Article III, entitled, "Regulations Applicable to Particular Zones," Division 14 entitled "I-1 Zone, Light Industrial," Division 15 entitled "I-3 Zone, Industrial and Office Park," and to correct typographical errors and to require adherence to additional regulations when building in an industrial zone that abuts residential uses.

Staff has been asked to review the Industrial Use zones and how each zone relates to adjacent and abutting residential properties. Staff reviewed the I-1 and I-3 zones for existing language that ensures compatible development in industrial zones that would potentially effect existing residential development.

Specific areas were identified within the I-1 and I-3 zones where language could be enhanced and in sections where additional language and standards could be introduced to further ensure compatible and harmonious new development and redevelopment in these industrial zones.

**The proposed I-1 changes are limited to 2 sections; existing 24-139 and an entirely new section, 24-139A.**

The proposed text amendment would increase the required setback from 30 feet to 75 feet if the property adjoins a residential property with an existing residential dwelling. Further, a new Section 24-139A – *Development Standards When Abutting Residential Uses* introduces very specific guidelines for any future development within the I-1 zone.

There are essentially 4 elements to the new section, which include:

- An increased setback from 30' to 75' feet
- A maximum building height of 45' (this maximum height remains consistent with the current requirement)
- A section requiring compatibility with surrounding properties
- A section requiring a Design Code at preliminary plan review

**The proposed I-3 changes are limited to only 2 sections; the amendments to Section 24-143 are typographical and publishing corrections only.**

**The only other proposed change is the introduction of Section 24-149A, an entirely new section, *Development Standards When Abutting Residential Uses*.**

This subsection is similar to the proposed section for the I-1 Zone and includes:

- Increases setbacks from 50' to 75' (25' to 30' for front yard setbacks)

- Decreases maximum height from 110 feet to 45 feet when abutting residential
- Eliminates the incremental setback/height increase for buildings over 30 feet. Currently in the I-3 Zone, buildings require an additional one foot setback for every foot over 30 feet in building height. By limiting the building heights to 45 feet and increasing the required setback to 75 feet, the incremental increase method would not be necessary.
- Requires Design Code at Preliminary Plan Review

This item is on your agenda for a transmittal of a recommendation to the Mayor and Council.

Ordinance No. \_\_\_\_\_

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE,  
ENTITLED "ZONING," ARTICLE III, ENTITLED, "REGULATIONS APPLICABLE TO  
PARTICULAR ZONES," DIVISION 14, ENTITLED, "I-1 ZONE, LIGHT INDUSTRIAL,"  
DIVISION 15, ENTITLED, "I-3 ZONE, INDUSTRIAL AND OFFICE PARK," TO  
CORRECT TYPOGRAPHICAL ERRORS AND TO REQUIRE ADHERENCE TO  
ADDITIONAL REGULATIONS WHEN BUILDING IN AN INDUSTRIAL ZONE THAT  
ABUTS RESIDENTIAL USES

Text Amendment **T-375**

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg,  
in public meeting assembled, that Chapter 24 of the City Code, Article III, Divisions 14  
and 15 are hereby amended to read as follows:

**ARTICLE III. REGULATIONS APPLICABLE TO PARTICULAR ZONES.**

\* \* \* \* \*

**DIVISION 14, I-1 ZONE, LIGHT INDUSTRIAL**

\* \* \* \* \*

**Sec. 24-139. Setback requirements.**

Where land in the I-1 Zone adjoins a lot line of land [in a residential] zoned  
residential [in a] and containing a residential dwelling unit, no building in this zone shall  
be constructed within [thirty (30)] seventy-five (75) feet of such lot line.

\* \* \* \* \*

**Sec. 24-139A. Development Standards When Abutting Residential Uses**

Even if not otherwise developing property under the TND option as allowed in  
Section 24-141(C) herein, the following development standards shall apply to uses in  
the I-1 zone when such properties either abut or are adjacent to property used for  
residential use:

**Boldface**

**Underlining**

[Single boldface brackets]

**Double underlining**

[[Double boldface brackets]]

\*\*\*

*Heading or defined term.*

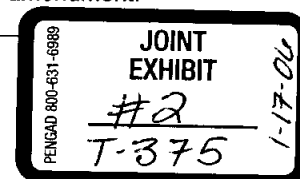
*Added to existing law by original bill.*

*Deleted from existing law by original bill.*

*Added by Amendment.*

*Deleted from existing law or the bill by amendment.*

*Existing law unaffected by bill.*



1. Buildings and structures shall be setback a minimum of seventy five (75) feet from any property line, with the exception of all front yards, which shall have a thirty (30) foot minimum setback.
2. Buildings shall not exceed forty-five (45) feet in height.
3. Development shall be generally compatible with existing, developed portions of surrounding properties.
4. The design code requirements of the TND option, set forth in section 24-22.3(f) shall apply, any references to minimum unit numbers therein notwithstanding.

\* \* \* \* \*

## DIVISION 15. I-3 ZONE, INDUSTRIAL AND OFFICE PARK

\* \* \* \* \*

### Sec. 24-143. Uses permitted by right.

The following uses are permitted by right in the I-3 Zone:

- (1) All uses permitted by right in the [I-3] E-1 Zone.

\* \* \* \* \*

- (11) Telecommunications facilities and monopoles located entirely within an existing structure or located on the rooftop of an existing structure other than a single-family dwelling unit, subject to the requirements of section 24-167A[(C)] (D) (1).

\* \* \* \* \*

### Sec. 24-149A. Development Standards When Abutting Residential Uses

Even if not otherwise developing property under the TND option as allowed in Section 24-150 herein, the following development standards shall apply to uses in the I-3 zone when such properties either abut or are adjacent to property used for residential use:

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by Amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
***	<i>Existing law unaffected by bill.</i>

1. Buildings and structures shall be setback a minimum of seventy five (75) feet from any property line, with the exception of all front yards, which shall have a thirty (30) foot minimum setback.
2. Buildings shall not exceed forty-five (45) feet in height.
3. Development shall be generally compatible with existing, developed portions of surrounding properties.
4. The design code requirements of the TND option, set forth in section 24-22.3(f) shall apply, any references to minimum unit numbers therein notwithstanding.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2005 by the City Council of Gaithersburg, Maryland.

\_\_\_\_\_  
SIDNEY A. KATZ, MAYOR and  
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this \_\_\_\_ day of \_\_\_\_\_, 2006. APPROVED by the Mayor of the City of Gaithersburg, this \_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Sidney A. Katz, Mayor

THIS IS TO CERTIFY that the foregoing ordinance as adopted by the City Council of Gaithersburg, in public meeting assembled, on the \_\_\_\_ day of \_\_\_\_\_, 2006, and that the same was approved/vetoed by the Mayor of the City of Gaithersburg on the \_\_\_\_ day of \_\_\_\_\_, 2006. This Ordinance will become effective on the \_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
David B. Humpton, City Manager

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by Amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
***	<i>Existing law unaffected by bill.</i>

# MAYOR & COUNCIL AGENDA COVER SHEET

## MEETING DATE:

January 17, 2006

## CALL TO PODIUM:

**Greg Ossont, Director  
Planning and Code  
Administration  
RESPONSIBLE STAFF:**

**Greg Ossont, Director  
Planning and Code  
Administration**

**Cathy Borten, City Attorney  
AGENDA ITEM:**  
(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
<input checked="" type="checkbox"/>	Joint Public Hearing
	Historic District
	Consent Item
	Ordinance
	Resolution
	Policy Discussion
	Work Session Discussion Item
	Other:

## PUBLIC HEARING HISTORY:

(Please complete this section if agenda item is a public hearing)

Introduced	NA
Advertised	01/04/2006
	01/11/2006
Hearing Date	01/17/2006
Record Held Open	
Policy Discussion	

## TITLE:

### JOINT PUBLIC HEARING – T-375

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE ENTITLED "ZONING," ARTICLE III ENTITLED "REGULATIONS APPLICABLE TO PARTICULAR ZONES," DIVISION 14 ENTITLED "I-1 ZONE, LIGHT INDUSTRIAL," DIVISION 15 ENTITLED "I-3 ZONE, INDUSTRIAL AND OFFICE PARK," AND TO CORRECT TYPOGRAPHICAL ERRORS AND TO REQUIRE ADHERENCE TO ADDITIONAL REGULATIONS WHEN BUILDING IN AN INDUSTRIAL ZONE THAT ABUTS RESIDENTIAL USES

## SUPPORTING BACKGROUND:

Staff has been asked to review the Industrial Use zones and how each zone relates to adjacent and abutting residential properties. Staff reviewed the I-1 and I-3 zones for existing language that ensures compatible development in industrial zones that could potentially effect existing residential development.

Specific areas were identified within the I-1 and I-3 zones where language could be amended and in sections where additional language and standards could be introduced to ensure compatible and harmonious new development and redevelopment in these industrial zones.

The proposed amendments increase setbacks and apply additional development standards when developing properties abutting or adjacent to residential properties. The proposed amendments were discussed during a joint work session on November 28, 2005.

Presentation: 5 Minutes

*Attachments: Index of Memoranda and Exhibits*

## DESIRED OUTCOME:

Planning Commission record open 21 days, close February 7, 2006

Planning Commission recommendation on February 15, 2006.

City Council record open 31 days, close February 17, 2006

City Council policy discussion February 21, 2006

City Council final action on March 6, 2006

PENGAD 800-631-6989

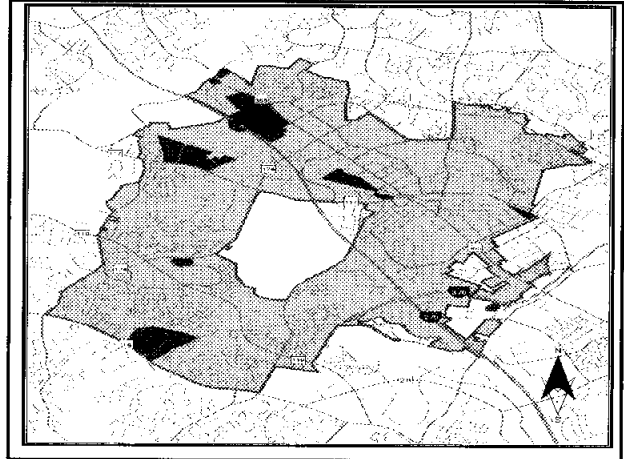
JOINT  
EXHIBIT

#6

T-375

1-17-06

T-375  
I-1 Zone – Light Industrial  
I-3 Zone – Industrial and Office  
Park



### Objective

- Enhance standards for development in the I-1 and I-3 Zones when it is in proximity to existing residential development

### I-1 Zone, Light Industrial Changes Limited to 2 Sections

- Section 24-139 – Setback Requirements
- Section 24-139A - Development Standards When Abutting Residential Uses (entirely new subsection)



**Current  
Section 24-139 – Setback  
Requirements**

Where land in the I-1 Zone adjoins a lot line of land in a residential zone, no building in this zone shall be constructed within thirty (30) feet of such lot line.

**Proposed  
Sec. 24-139 - Setback  
Requirements**

Where land in the I-1 Zone adjoins a lot line of land [in a residential] zoned residential [in a] and containing a residential dwelling unit, no building in this zone shall be constructed within [thirty (30)] seventy-five (75) feet of such lot line.

**Section 24-139A – Development Standards  
When Abutting Residential Uses**

- Introduces development standards to apply to development abutting or adjacent to residential property whether or not Traditional Neighborhood Design (TND) Option is being used.
  - Requires minimum setbacks of 75', front yard setback remains 30'
  - Maximum building height of 45'
  - Requires compatibility
  - Applies Design Code elements of the TND option

**TND Design Code Language  
Section 24-22.3(f)**

Developments must prepare and submit a design code that regulates materials, use, height, bulk and location of buildings, structures and parking on the lots. Such codes shall contain architectural elements to control the appearance of buildings visible from the public realm. Design Code reviewed by Planning Commission at preliminary plan review.

### I-3 Zone, Industrial and Office Park Changes Limited to 2 Sections

- **Section 24-143**

Proposed amendments are corrections of typographical and publishing errors only

- **Section 24-149A**

Development Standards When Abutting Residential Uses

### Section 24-149A – Development Standards When Abutting Residential Uses

- Introduces development standards to apply to development abutting or adjacent to residential property whether or not Traditional Neighborhood Design (TND) Option is being used.
  - Requires minimum setbacks of 75', front yard setback of 30'
  - Maximum building height of 45'
  - Requires compatibility
  - Applies Design Code elements of the TND option

### Effects of the New Section 24-149A in the I-3 Zone

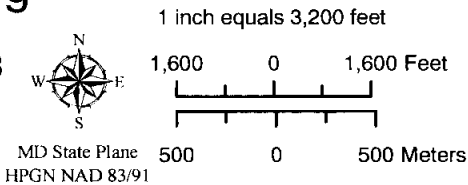
- Increases setbacks from 50' to 75' (25' to 30' for front yard setbacks)
- Eliminates the incremental setback/height increase for buildings over 30 feet.
- Decreases maximum height from 110 feet to 45 feet when abutting residential
- Requires Design Code at Preliminary Plan Review



# City of Gaithersburg

## Properties Zoned I-1 and I-3

Zoning I-1 I-3 letter.mxd · 12-Sep-2005 · jke



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City Manager's Office  
31 S Summit Ave  
Gaithersburg, MD 20877  
(301) 258-6310  
[www.ci.gaithersburg.md.us](http://www.ci.gaithersburg.md.us)



ACCTID	ZONIN	ADDRESS	CITY	ZIPCO	OWNNAME1
160903310305	I1	25 CHESTNUT ST	GAITHERSBURG	20877	25 CHESTNUT STREET LLC
160903158790	I1	9030 COMPRINT CT	GAITHERSBURG	20877	GAZETTE NEWSPAPER INC
160901782306	I1	300 E DEER PARK DR	GAITHERSBURG	20877	GUARDIAN PROPERTY ASSOC
160903085410	I1	227 E DEER PARK DR	GAITHERSBURG	20877	HOUSING OPP COMM OF MONTG CO
160903085421	I1	231 E DEER PARK DR	GAITHERSBURG	20877	HOUSING OPP COMM OF MONTG CO
160903085408	I1	229 E DEER PARK DR	GAITHERSBURG	20877	MONTGOMERY CO
160900840840	I1	16 CHESTNUT ST	GAITHERSBURG	20877	MONTGOMERY COUNTY
160900819524	I1	14 CHESTNUT ST	GAITHERSBURG	20877	QUINN, JOHN H JR ET AL TR
160902758882	I1	26 W DIAMOND AVE	GAITHERSBURG	20877	SOVRAN ACQUISITION L P
160900820237	I1	4 MEEM AVE	GAITHERSBURG	20877	STANDARD SUPPLIES INC
160900840805	I1	4 MEEM AVE	GAITHERSBURG	20877	STANDARD SUPPLIES INC
160903147967	I3	45 W WATKINS MILL ROAD	GAITHERSBURG	20878	ARE-25/35/45 W WATKINS CORP
160902774712	I3	50 W WATKINS MILL ROAD	GAITHERSBURG	20878	ARE-50 W WATKINS MILL LLC
160903147956	I3	9 W WATKINS MILL ROAD	GAITHERSBURG	20878	ARE-MARYLAND NO 23 LLC
160903279915	I3	1201 CLOPPER ROAD	GAITHERSBURG	20878	ARE-METROPOLITAN GROVE I LLC
160901661658	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	ARTWORK MASTER CORP
160901662243	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	ARTWORK MASTERS CORP
160901661751	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	ARTWORK MASTERS CORPORATION
160901661762	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	ARTWORK MASTERS CORPORATION
160901662232	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	ARTWORK MASTERS CORPORATION
160901661911	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	BALLA, LOUIS B ET AL TR
160901661922	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	BALLA, LOUIS B ET AL TR
160902795598	I3	1101 CLOPPER ROAD	GAITHERSBURG	20878	BOWL AMERICA INC
160901661738	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	BRITTI, ANTHONY F & N G
160901661740	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	BRITTI, ANTHONY F & N G
160901661944	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	BRITTI, ANTHONY F & N G
160901661660	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	BUTT, SAMSON P
160901661647	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	CHENKIN, HOWARD
160901661625	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	CIARAMELLO, WILLIAM P & P F
160903257235	I3	1649 MAIN ST	GAITHERSBURG	20878	CITY OF GAITHERSBURG
160903257246	I3				CITY OF GAITHERSBURG
160903257257	I3				CITY OF GAITHERSBURG
160903257281	I3				CITY OF GAITHERSBURG
160901661820	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	CKSG GENERAL PARTNERSHIP
160901661693	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	CKSG GENERAL PTNSHP
160901661705	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	CKSG GENERAL PTNSHP
160901662037	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	CKSG GENERAL PTNSHP
160901662048	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	CKSG GENERAL PTNSHP
160901662050	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	CKSG GENERAL PTNSHP
160901662061	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	CKSG GENERAL PTNSHP
160901661831	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	COUNCIL OF UNIT OWNERS OF
160902795587	I3	2 METROPOLITAN CT	GAITHERSBURG	20878	DANIEL DANIEL & DANIEL
160901662210	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	DARROODI, ALI & M
160903257315	I3				EDISON TECH LLC ET AL
160901661853	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	ERSEK, DONNA N ET AL
160901661864	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	ERSEK, DONNA N ET AL
160901661955	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	ERSEK, DONNA N ET AL
160901661966	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	ERSEK, DONNA N ET AL
160901661977	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	ERSEK, DONNA N ET AL
160901661988	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	ERSEK, DONNA N ET AL
160901662208	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	ESLER, JOHN T JR & V A
160901662312	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	EVANSHAW, MICHAEL R
160903185816	I3	75 W WATKINS MILL ROAD	GAITHERSBURG	20878	FIRST FEDERAL CORPORATION
160902544207	I3	101 ORCHARD RIDGE DR	GAITHERSBURG	20878	FOULGER LAND LTD PTNSHP ET AL
160901662391	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	FUSION POWER ASSOCIATES
160901662403	I3	2 PROFESSIONAL DR	GAITHERSBURG	20879	FUSION POWER ASSOCIATES
160901661900	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	GEISSLER, DAVID R & T E B
160901661727	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	GIST, ROBERT
160901661671	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	GOBER, ALAN E & R B
160901661636	I3	4 PROFESSIONAL DR	GAITHERSBURG	20879	GRAMES, GEORGE M ET AL TR
160902518573	I3	5 METROPOLITAN CT	GAITHERSBURG	20878	HALCYON ASSOCIATES

CTID	VACANT / REDEV	ZONING	ADDRESS	CITY	ZIPCD	OWNNAME1
1903436262	R	I3				CASEY, BETTY B ET AL TR
1903436273	R	I3				CASEY, BETTY B ET AL TR
1903346081	R	I3				CITY OF GAITHERSBURG
1902018563	R	I3	21 METROPOLITAN GROVE ROAD	GAITHERSBURG	20878	DANIEL DANIEL & DANIEL
1903257315	R	I3				EDISON TECH LLC ET AL
1903461016	R	I3	655 WATKINS MILL ROAD	GAITHERSBURG	20879	MONUMENT CORPORATE CENTER LLC
1903461005	R	I3	960 FREDERICK AVE	GAITHERSBURG	20879	MR 270 NMD I LLC
1903257268	R	I3				SFHI LLC
1900818234	R	MXD				CASEY, BETTY B ET AL TR
1900821777	R	MXD				CASEY, BETTY B ET AL TR
1900836698	R	MXD				CASEY, BETTY B ET AL TR
1903436251	R	MXD				CASEY, BETTY B ET AL TR
1903016800	R	MXD	311 KENTLANDS BLVD	GAITHERSBURG	20878	DAAB LLC
1903203814	R	MXD	316 KENTLANDS BLVD	GAITHERSBURG	20878	KENTLANDS II LLC
1903433623	R	MXD	911 QUINCE ORCHARD ROAD	GAITHERSBURG	20878	MEDIMMUNE INC
1903433634	R	MXD				MEDIMMUNE INC
1902711271	R	MXD				MONTGOMERY COUNTY
1900768355	R	MXD				MONTGOMERY COUNTY
1903244450	R	MXD	9711 WASHINGTONIAN BLVD	GAITHERSBURG	20878	ORIX GAITHERSBURG LLC
1902900216	R	MXD	900 WIND RIVER LANE	GAITHERSBURG	20878	QOCC ASSOCIATES
1903203494	R	MXD	30 EXCHANGE ST	GAITHERSBURG	20878	SAUL HOLDINGS LTD PRTNSHP
1903326527	R	MXD	1409 MAIN ST	GAITHERSBURG	20878	SHAARE TORAH INC
1900777953	R	MXD				UNITED STATES AMERICA
1903340860	R	MXD				WASHINGTONIAN NORTH ASSO L P
1903340871	R	MXD	10000 WASHINGTONIAN BLVD	GAITHERSBURG	20878	WASHINGTONIAN NORTH ASSO L P
1903198705	V	I1				HOUSING OPP COMM OF MONT CO
1903257292	V	I3	101 EDISON PARK DR	GAITHERSBURG	20878	EDISON TECH LLC ET AL
1902214641	V	I3				THE HUMANE SOCIETY OF THE
1903309090	V	MXD	151 LAKELANDS DR	GAITHERSBURG	20878	151 LAKELANDS LLC
1902960458	V	MXD	4 KENT GARDENS CIR	GAITHERSBURG	20878	BRISCUSO, JEAN ET AL
1900768333	V	MXD				BURNS, EDWARD 4TH ET AL
1903458097	V	MXD				CHURCHILL DEVELOPMENT CORP
1900818644	V	MXD				ENGLAND, JONATHAN S ET AL
1902304605	V	MXD	911 QUINCE ORCHARD ROAD	GAITHERSBURG	20878	GENERAL ELECTRIC REAL EST CREDIT
1903299753	V	MXD				GREAT SENECA DEVELOPMNT CORP
1900771546	V	MXD				HOWARD, KEVIN
1900771752	V	MXD				METROPOLITAN GROVE RD LLC
1901869568	V	MXD				METROPOLITAN GROVE RD LLC
1901869557	V	MXD				METROPOLITAN GROVE RD LLC
1902781967	V	MXD				MONTGOMERY COUNTY
1902900182	V	MXD				QOCC ASSOCIATES
1902304547	V	MXD				QOCC ASSOCIATES
1900774948	V	MXD				ROSENTHAL, ROBERT
1903069330	V	MXD	913 QUINCE ORCHARD ROAD	GAITHERSBURG	20878	S & T KENTLANDS LLC
1900772745	V	MXD				STEWART, ASBY
1903340882	V	MXD	10101 WASHINGTONIAN BLVD	GAITHERSBURG	20878	WASHINGTONIAN NORTH ASSO L P
1903340893	V	MXD	10201 WASHINGTONIAN BLVD	GAITHERSBURG	20878	WASHINGTONIAN NORTH ASSO L P

## DIVISION 14. I-1 ZONE, LIGHT INDUSTRIAL

**Sec. 24-136. Uses permitted by right.**

The following uses are permitted by right in the I-1 Zone:

**A. OFFICE AND RESEARCH USES:**

- (1) Clinic, medical or dental.
- (2) General office.
- (3) Research, experimental or testing laboratories.

**B. CULTURAL, ENTERTAINMENT AND RECREATIONAL:**

- (1) Employee recreational facilities (conditional use).
- (2) Health clubs.
- (3) Libraries, science or technical.
- (4) Place of religious worship.
- (5) Commercial parks and other places of outdoor amusements, including golf courses, miniature golf courses, driving ranges, carnivals and fairs, subject to the following requirements:
  - (a) When such use abuts the side and rear line of a lot in a residential zone, a solid wall or substantial solid fence at least six (6) feet in height shall be constructed and maintained along such lot line.
  - (b) Lighting, including permitted illuminating signs, shall be arranged so as not to reflect or cause glare into any residential zone.
  - (c) When such use occupies a corner lot, the ingress or egress driveways shall be located at least fifty (50) feet from the intersection of the front and side street lines of the lot, and such driveways shall not exceed twenty-five (25) feet in width. Driveway entrances and exits shall not be located directly across a street or alley nor less than twenty-five (25) feet from residential property.
- (6) Adult-oriented businesses subject to the following requirements:
  - (a) Goods, merchandise, materials displayed, exhibited, sold, rented or bartered or live performances must not be visible from outside the establishment. Any establishment devoting less than ten percent (10%) of its total floor area to adult-oriented materials defined in Section 24-1 must be located within an enclosed room or area, separated from the general retail areas with appropriate signage identifying the adult content of the room or area.
  - (b) Access must be prohibited to any person under the age of 21 years.
  - (c) The business must be located at least one (1000) thousand feet away from any property: (i) located in a residential zone or (ii) on which a church or religious facility, school, library, park, playground, recreational facility,

daycare center or where another adult-oriented business is located. The distance must be measured in a straight line from the nearest point of the boundary of the property upon which the business is located to the nearest point of a boundary line to the uses described in subsection (6)(c)(i) and (ii) hereinabove.

(d) The business may operate only between the hours of 9:00 am and 9:00 pm.

C. PRODUCTION/MANUFACTURING/ASSEMBLY/PROCESSING:

- (1) Aircraft/satellite parts.
- (2) Bottling plant, such as dairy and soft drink products.
- (3) Cabinetmaking/carpentry.
- (4) Cosmetics, drugs, perfumes, pharmaceuticals, toiletries and products resulting from biotechnical and biogenetic research and development.
- (5) Electroplating and manufacturing of small parts, such as coils, condensers, transformers and crystal holders.
- (6) Ice manufacturing and storage plant.
- (7) Lumber yard, including planing, milling and other processing.
- (8) Machine parts, components, instruments and devices.
- (9) Machine tools manufacture, scientific and testing apparatus.
- (10) Manufacture, compounding, processing or packaging of food and food products, other than vinegar and yeast, but not including the rendering or refining of fat or oil, or the production of cosmetics, toiletries or pharmaceuticals or the operation of abattoirs.
- (11) Manufacture, compounding or assembling of articles using the following prepared materials: bone or shell, cellophane, fur, glass, leather, plastics, precious or semiprecious metals or stones, rubber, textiles or cloth products, tobacco or wood or wood products.
- (12) Manufacture of ceramic products, excluding building materials, using only previously pulverized clay and kilns fired by electricity or gas.
- (13) Manufacture or assembling from prepared material of the following: musical instruments, clocks or watches, toys or novelties, electrical devices, light sheet metal products and office equipment.
- (14) Medical, scientific or technical instruments, devices and equipment.
- (15) Metal and steel fabricators.
- (16) Modular/mobile homes.
- (17) Paint without boiling.
- (18) Paper products.
- (19) Semiconductors, microchips, circuits and circuit boards.

(20) Stoneworks.

(21) Yeast, mold and other natural products necessary for medical and biotechnical research and development.

D. RETAIL AND WHOLESALERS:

(1) Aircraft parts and service.

(2) Antiques.

(3) Building material sales yard, including the sale of rock, sand, gravel and the like as an incidental part of the main business, and contractors' equipment storage yard and plant.

(4) Bakers, including the retail sale of goods baked on the premises, provided such use is located within the Olde Towne District, as defined in section 24-161 of this Code.

(5) Computers and accessories.

(6) Furniture.

(7) Home improvement suppliers and distributors, selling or distributing hardware, plumbing supplies, paint, wallpaper, lighting fixtures, carpet, garden supplies, plant nursery products and furniture.

(8) Personal services for employees.

(9) Pet/livestock feeds.

E. SERVICES:

(1) Automobile, truck and transport vehicle rental.

(2) Blacksmith.

(3) Cabinet shops, upholstery shops and fabric shops.

(4) Dry cleaning.

(5) Duplicating.

(6) Laundry plants.

(7) Motor vehicle paint and repair shops and sale of motor vehicle parts.

(8) Motor vehicle upholstery.

(9) Plumbing, heating and air conditioning distribution and repair.

(10) Printing and publishing.

(11) Tin smithing/roofing.

(12) Trade/technical schools.

F. TRANSPORTATION, COMMUNICATION AND UTILITIES:

(1) Electric power transmission and distribution lines, overhead and underground.



- (2) Public utility uses, such as electric substations, storage or material and trucks, repair facilities, offices and electric generating plants.
- (3) Railroad tracks.
- (4) Telephone and telegraph lines.
- (5) Telephone offices, communications and telecommunications centers.
- (6) Telecommunications facilities subject to the requirements of section 24-167A(C)(1).
- (7) Trucking terminals.

G. *Warehousing, storage and distribution:*

- (1) Wholesale businesses, warehouses and nonprocessing storage and distribution uses, but not including bulk storage of chemicals, petroleum products and other flammable, explosive or noxious materials; notwithstanding the foregoing, bulk storage of petroleum products may continue in its present location as a permitted use if existing prior to the adoption of this ordinance, provided, however, that said use may not be expanded by more than ten (10) percent in volume of storage.

H. *Other uses:*

- (1) Accessory uses:
  - (a) Retail sales of products manufactured on the premises.
  - (b) Living quarters for owners, caretakers or watchmen and their families.
  - (c) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.
- (2) Accessory structures must conform to requirement of section 24-163 of this Code.
- (3) Agricultural uses.
- (4) Bed and breakfast, subject to the requirements contained in section 24-167B.
- (5) Off-street parking.
- (6) Pipelines.
- (7) Public buildings and uses.
- (8) Satellite television antennas and towers, poles, antennas or other structures intended for use in connection with transmission or receipt of radio or television signals, or both, subject to the provisions of section 24-167A of this Code.

(Ord. No. O-4-96, 3-18-96; Ord. No. O-21-97, 11-17-97; Ord. No. O-10-02, 11-4-02; Ord. No. O-5-04, 1-20-04)

**Editor's note**—Ord. No. O-4-96, adopted Mar. 18, 1996, repealed § 24-136, which pertained to uses permitted by right and derived from Ord. No. O-2-65, Art. 3, § 1; Ord. No. O 13-72; Ord. No. O-2-74; Ord. No. O-5-75, § 5; Ord. No. O-2-76, § 1; Ord. No. O 3-88, adopted Mar. 28, 1988; Ord. No. O-17-93, adopted Nov. 15, 1993; and Ord. No. O-12-95, adopted July 10, 1995. Ord. No. O-4-96 enacted similar new provisions as herein set out.

**Sec. 24-136A. Special exception uses.**

- (1) Alcoholic beverage manufacturing.
- (2) Animal boarding places.
- (3) Automobile sales, retail and wholesale.
- (4) Child and elderly day care.
- (5) Hospital.
- (6) Motor vehicle assembly.
- (7) Private clubs.
- (8) Veterinary hospitals and clinics.
- (9) Tattoo parlors and body piercing establishments subject to the following requirements in addition to other requirements generally for approving special exceptions and compliance with conditions imposed by the City Board of Appeals:
  - (a) The business premises must not be located on property where the boundaries of the property are within one thousand (1,000) feet of the boundaries of property containing a school, church, religious facility or other tattoo parlor or body piercing establishment or any residentially zoned property including property in the MXD Zone.
  - (b) The business premises may only operate between the hours of 9:00 am and 9:00 pm.
  - (c) The business must conform to any applicable state and local health and safety regulations.
  - (d) No instruments or equipment shall be used which has not been sterilized for use on any customer or client.

(Ord. No. O-4 96, 3-18-96; Ord. No. O-10-02, 11-4-02)

**Sec. 24-137. Applicability of division to lands shown on zoning maps as I-2 Zone.**

Land shown on the official zoning map of the city in the I-2 Zone shall be governed by the regulations contained in this division.

(Ord. No. O-13-72)

**Sec. 24-138. Minimum lot width.**

Lots in the I-1 Zone shall have a minimum width of fifty (50) feet; provided, however, that any building in excess of fifteen (15) feet in height shall be on a lot with a minimum width of seventy (70) feet. Where a lot is a corner lot, or through lot containing frontage on more than

one public street, the front of the lot for the purposes of determining conformance with this requirement shall be the portion of the lot with the most immediate and direct access to a public street.

(Ord. No. O-13-72; Ord. No. O-22-87, 9-8-87)

**Sec. 24-139. Setback requirements.**

Where land in the I-1 Zone adjoins a lot line of land in a residential zone, no building in this zone shall be constructed within thirty (30) feet of such lot line.

(Ord. No. O-13-72)

**Sec. 24-140. Height restrictions.**

The maximum height of buildings in the I-1 Zone shall be forty-five (45) feet.  
(Ord. No. O-13-72)

**Sec. 24-141. Maximum lot coverage.**

No more than seventy-five (75) percent of any lot in the I-1 Zone may be occupied by buildings.  
(Ord. No. O-13-72)

**Sec. 24-141A. Frontage and access requirements.**

Buildings constructed on I-1 zoned land containing an aggregate gross floor area of twenty thousand (20,000) square feet or more shall be located on a lot having not less than seventy-five (75) feet of frontage upon an improved public roadway and direct access to that roadway.  
(Ord. No. O-22-87, 9-8-87)

**Sec. 24-141B. Open storage restrictions.**

The open storage in any yard area of goods, materials or equipment for sale or lease off-site shall be upon areas designated in an approved site plan and shall be enclosed by a sight-tight fence or planted material not less than six (6) feet in height.  
(Ord. No. O-22-87, 9-8-87)

**Sec. 24-141C. Traditional Neighborhood Design (TND) option.**

The Traditional Neighborhood Design (TND) option may be used as an alternate method of development, subject to compliance with the standards set forth in section 24-22.3 of Chapter 24 of this Code.  
(Ord. No. O-3-99, 1-19-99)

**DIVISION 15. I-3 ZONE, INDUSTRIAL AND OFFICE PARK****Sec. 24-142. Purpose of zone.**

The purpose of the I-3 Zone is to provide for parklike development of industries or offices that are relatively nuisance-free. Uses permitted in this zone are provided a healthful operating environment secure from the encroachment of commercial or residential uses, and protected from adverse effects of incompatible industries. The regulations in this zone will reduce the impact of employment centers on surrounding uses by lessening traffic congestion, protecting the health and safety of workers and residents nearby, and by preventing detrimental effects on properties adjoining or in the neighborhood.  
(Ord. No. O 2 65, Art. 3, § 1)

**Sec. 24-143. Uses permitted by right.**

The following uses are permitted by right in the I-3 Zone:

- (1) All uses permitted by right in the I-3 Zone.
- (2) Public buildings and uses subject to the following requirements:
  - (a) The minimum lot or parcel area shall be at least twenty (20) acres in size.
  - (b) No on-site parking or storage of trucks, either within a building or on the exterior, or motor vehicles other than automobiles for employees and customers of the facility are allowed.
  - (c) All parking areas shall be set back at least fifty (50) feet from any common property line or public right-of-way and shall be screened by fencing or planting at least four (4) feet in height.
  - (d) No distribution uses are allowed. For the purpose of this section "distribution uses" is defined as the primary use of the property for the collection and transfer or dispensing of personal property or equipment to public or private recipients.
- (3) Public buildings and uses.
- (4) Office buildings for professional and general business offices.
- (5) Restaurants (Class A when located within the same building which is substantially devoted to a recreational use and Class C).
- (6) Adult-oriented businesses subject to the following requirements:
  - (a) Goods, merchandise, materials sold, rented or bartered or live performances must not be visible from outside the establishment.
  - (b) Access must be prohibited to any person under the age of 21 years.
  - (c) The business must be located on property where the boundary of the property is at least 1,000 feet away from any property (i) located in a residential zone or (ii) on which a church or religious facility, school, library, park, playground, recreational facility, daycare center or where any other adult-oriented business is located. The distance must be measured in a straight line from the front entrance of the adult-oriented business to the nearest point of a boundary line to the uses described in subsection (6)(c)(i) and (ii) hereinabove.
  - (d) The business may operate only between the hours of 9:00 am and 9:00 pm.
- (7) Hospitals and associated medical facilities such as, but not limited to, medical laboratories, medical schools and convalescent homes.
- (8) Child or elderly day care facilities accommodating not more than eight (8) individuals.

- (9) Child or elderly day care facilities accommodating more than eight (8) individuals subject to restrictions on such use contained in section 24-25(4) and the following requirements:

- a. Such use within a building or structure shall be constructed and maintained with noise attenuation materials so not to emit noises in excess of a sixty-five (65) dba level into adjoining uses, common areas or public ways;
- b. Outdoor play areas and playgrounds abutting improved residential property shall only be used between the hours of 8:00 a.m. and 6:00 p.m.;
- c. Facilities accommodating more than eight (8) children but not more than twenty (20) children at any one time shall provide at least three hundred (300) square feet of gross lot or parcel area per child, and facilities accommodating more than twenty (20) children at any one time shall provide at least five hundred (500) square feet of gross lot or parcel area per child;
- d. The use shall be located and operated so that traffic will not constitute a nuisance to single-family residential areas; and
- e. That the design of the facilities will be compatible and in character with surrounding, existing and proposed residential uses.

- (10) Bed and breakfast subject to the requirements contained in section 24-167B.

- (11) Telecommunications facilities and monopoles located entirely within an existing structure or located on the rooftop of an existing structure other than a single-family dwelling unit, subject to the requirements of section 24-167A(C)(1).

(Ord. No. O-2-65, Art. 3, § 1; Ord. No. O-16-71; Ord. No. O-7-73, § 9; Ord. No. O-4-74, § 2; Ord. No. O-2-76, § 1; Ord. No. O-10-81, § 7; Ord. No. O-14-83, § 1, 7-18-83; Ord. No. O-20-87, 9-8-87; Ord. No. O-3-88, 3-24-88; Ord. No. O-5-93, 4-12-93; Ord. No. O-17-93, 11-15-93; Ord. No. O-11-96, 10-21-96; Ord. No. O-21-97, 11-17-97; Ord. No. O-2-00, 2-7-00; Ord. No. O-10-02, 11-4-02)

**Sec. 24-144. Uses permitted as special exceptions.**

The following uses are permitted in the I-3 Zone as special exceptions after approval by the board of appeals:

- (a) Amusement center as part of, and clearly accessory to, a separate primary recreational building and/or use. This use shall be subject to the standards and requirements contained in section 24-118(7) of the City Code and the following limitations:
  - (1) The accessory amusement center must be part of the original construction of a recreation establishment and not a part of a reuse of a building which is converted to recreational use.
  - (2) The building within which the amusement center is located must not be located closer than five hundred (500) feet to property zoned for, or improved with, single-family residential use.

- (3) The accessory amusement center must not be located in a building which is within one-half mile, in straight line distance, to another building containing an amusement center accessory use.

(b) Pawn shops, provided that a pawn shop is not located within one thousand (1,000) feet of the boundaries of property containing a school, church, religious facility, or any other pawnshop or any residentially zoned property, including property in the MXD Zone designated on an approved schematic development plan or sketch plan for residential use, and said use shall comply with the requirements of Chapter 44A, Montgomery County Code as amended. Pawnshops existing as of the effective date of this amendment shall conform to the provisions of section 24-167C(2) of the City Code.

(c) Tattoo parlors and body piercing establishments subject to the following requirements in addition to other requirements generally for approving special exceptions and compliance with conditions imposed by the City Board:

- (1) The business premises must not be located on property where the boundary of the property is located within one thousand (1,000) feet of the boundaries of property containing a school, church, religious facility or other tattoo parlor or body piercing establishment or any residentially zoned property including property in the MXD Zone.
  - (2) The business premises may only operate between the hours of 9:00 am and 9:00 pm.
  - (3) The business must conform to any applicable state and local health and safety regulations.
  - (4) No instruments or equipment shall be used which has not been sterilized for use on any customer or client.
- (Ord. No. O-2-65, art. 3, § 1; Ord. No. O-8-95, 6-5-95; Ord. No. O-2-98, 3-2-98; Ord. No. O-4-98, 4-6-98; Ord. No. O-10-02, 11-4-02)

#### **Sec. 24-145. Lots.**

Lots in the I-3 Zone shall have a minimum area of two (2) acres. Such lots shall have a minimum width of one hundred (100) feet.  
(Ord. No. O-2-65, art. 3, § 1)

#### **Sec. 24-146. Setback requirements.**

Building and structures within an I-3 Zone shall be setback a minimum of fifty (50) feet from any property line, with the exception of all front yards, which shall have a twenty (20) foot minimum setback. If a building exceeds thirty (30) feet in height, an additional one foot shall be added to the setback requirement for each foot that the building exceeds thirty (30) feet in height.  
(Ord. No. O-2-65, art. 3, § 1; Ord. No. O-19-97, 11-17-97)

**Sec. 24-147. Height restrictions.**

No building or structure in the I-3 Zone shall exceed one hundred ten (110) feet in height.  
(Ord. No. O-2-65, art. 3, § 1)

**Sec. 24-148. Lot coverage.**

Not more than twenty-five (25) percent of the net lot area of any lot in an I-3 Zone shall be covered by buildings, including accessory buildings.  
(Ord. No. O-2-65, art. 3, § 1)

**Sec. 24-149. Minimum distance between main buildings.**

The minimum distance between main buildings in the I-3 Zone shall be fifty (50) feet; provided, that if any building exceeds thirty (30) feet in height, one additional foot of separation shall be required for each foot that the building exceeds thirty (30) feet in height.  
(Ord. No. O-2-65, art. 3, § 1)

**Sec. 24-150. Traditional Neighborhood Design (TND) option.**

The Traditional Neighborhood Design (TND) option may be used as an alternate method of development, subject to compliance with the standards set forth in section 24-22.3 of Chapter 24 of this Code.  
(Ord. No. O-3-99, 1-19-99)

**DIVISION 16. I-4 ZONE, GENERAL INDUSTRIAL****Sec. 24-150A. Permitted uses.**

The following uses are permitted in the I-4 Zone:

- (1) All uses permitted in the I-1 Zone, section 24-136.
  - (2) Bulk storage and sales distribution of petroleum or chemical products, but not including the refining, processing or manufacture of such products.
- (Ord. No. O-3-82)

**Sec. 24-150B. Development and use standards.**

(1) All uses permitted in section 24-150A(1) shall be governed by the provisions set forth in sections 24-138 through 24-141.

(2) The following standards and requirements shall apply to those uses permitted pursuant to section 24-150A(2):

- (a) Minimum lot width shall be one hundred (100) feet.
- (b) No building or structure shall be erected or maintained within thirty (30) feet of any property line or within two hundred (200) feet of any residential building.
- (c) No building or structure shall exceed forty-five (45) feet in height.



- (d) No more than fifty (50) percent of any lot or parcel may be occupied with buildings or structures.
  - (e) Such structures and uses must conform to the standards and requirements of the Fire Safety Code of Montgomery County and the Basic Building Code, as adopted by the city, including the provision of adequate safety and firefighting devices.
  - (f) The use shall not result in the emission of fumes or odors of such intensity as to be detrimental to the health and welfare of the general public.
  - (g) There shall be no discharge of any petroleum or chemical product stored on the premises at any point into any public or private sewage disposal system or stream or into the ground.
  - (h) Prior to the issuance of any building or occupancy permit for such use, a site development plan shall be submitted to the city planning commission for its approval in accord with the requirements of Article V of this chapter.
- (Ord. No. O-3-82)

**Sec. 24-150C. Traditional Neighborhood Design (TND) option.**

The Traditional Neighborhood Design (TND) option may be used as an alternate method of development, subject to compliance with the standards set forth in section 24-22.3 of Chapter 24 of this Code.

(Ord. No. O-3-99, 1-19-99)

**DIVISION 17. E-1 ZONE, URBAN EMPLOYMENT**

**Sec. 24-151. Permitted uses.**

The following uses are permitted in the E-1 Zone:

- (1) Office buildings for general office purposes.
- (2) Public buildings, churches and similar uses.
- (3) Libraries and similar institutions of noncommercial nature.
- (4) Research, experimental and testing laboratories.
- (5) Manufacture, compounding, processing, assembly and retail sales of articles using prepared materials which are entirely stored within a structure.
- (6) Wholesale businesses, warehouses and similar nonprocessing storage and distribution uses, except bulk storage of chemicals, petroleum products and other inflammable, explosive or noxious materials.
- (7) Farms and other uses associated with agricultural activities.
- (8) Retail sales and consumer service establishments, incidental to and located within an office structure, limited to restaurants, drugstores, newsstands, barbershops, valet shops, specialty shops and delicatessens, banks and financial institutions.

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E-Mail Address: fehlig@erols.com  
Office Phone Number:  
Department:

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Office Phone Number:  
Department:

Name: Nannette Horan  
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Office Phone Number:  
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Department:

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Department:	



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Department:

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E-Mail Address: vkarasik@hotmail.com  
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Department:

Name: W P Morrison  
E-Mail Address: wallyboy53@comcast.net  
Office Phone Number:  
Department:



**FINMARC**  
MANAGEMENT INC.

Retail and Hotel Management Services

November 8, 2005

*David*

Mr. Fred Felton  
Assistant City Manager  
City of Gaithersburg  
31 S. Summit Avenue  
Gaithersburg, Maryland 20877

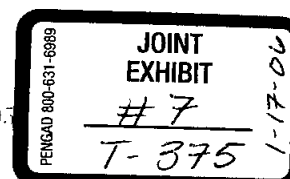
Mr. Greg Ossont  
Director of Planning and Code Administration  
City of Gaithersburg  
31 S. Summit Avenue  
Gaithersburg, Maryland 20877

Re: GE Technology Park – I-3 Zone Text Amendment

Gentlemen:

This letter is written on behalf of Edison Tech, LLC, the owner of Lot 2, Block B and Parcel B, Block B in the GE Technology Park (collectively, the "Property"). The Property contains 29.4 acres of land classified in the I-3 Zone, currently improved with a 261,316 square foot storage and distribution warehouse. The purpose of this letter is to express strong opposition to the current draft text amendment that would affect the I-3 Zone. This draft text amendment was a subject of a joint worksession on September 12, 2005.

The Property is at the edge of the GE Technology Park, and therefore adjoins residentially developed land on its eastern and northern borders. The proposed changes to the I-3 Zone would seriously and adversely affect the ability to effectively develop the Property. Both portions of the Property could have development rights and opportunities severely restricted as a result of this text amendment, which



Mr. Fred Felton and  
Mr. Greg Ossont  
November 8, 2005  
Page 2

would therefore significantly and adversely affect their value, as well as the future use.

Our Property was annexed into the City pursuant to an Annexation Agreement of May 1989 (the "Original Agreement"). The Original Annexation Agreement was modified with an Addendum in September 2000 (the "Addendum") (collectively, the Original Agreement and the Addendum comprise the "Annexation Agreement"). The Original Agreement indicates that the City will rezone to the Property to the I-3 Zone. The I-3 Zone is confirmed in the Addendum. As you aware, an annexation agreement is a contract between the property owner and the municipality and is binding on both, unless amended by mutual agreement. Thus, we believe that the Annexation Agreement governs the potential development and use of the Property, unless and until both parties agree to make modifications.

In light of the provisions of the Annexation Agreement, we have sought to work cooperatively with the City on the means by which our property, along with others in the GE Technology Park (the "Park") could be rezoned to the MXD Zone. That process is ongoing and must assure its accomplishment in a way that affects all properties in the Park equally, without imbalance. The Annexation Agreement carefully establishes the scope of overall development and the steps which must be undertaken to accomplish that development. In addition, the Annexation Agreement indicates that the entire annexed property (of which our Property is a portion) should be treated as a unified whole for all development analysis.

We believe that it would be premature and inconsistent to pursue changes in the I-3 Zone that could adversely affect our development potential, while at the same time pursuing the enhanced development potential through the MXD Zone.

Mr. Fred Felton and  
Mr. Greg Ossont  
November 8, 2005  
Page 3

With the proper design plan and implementation strategy, the MXD Zone can be most appropriate for eventual development of our Property along with others in the Park. However, there are many details yet to be worked out so as not to impair the continued use and operation of our existing building and tenants and to ensure that the intention of the Annexation Agreement—equal treatment of the entirety of the Park—is maintained.

Due to the contractual obligations of the Annexation Agreement, any intervening changes in the I-3 Zone, if made, should clearly and expressly exclude the GE Technology Park property from their application. This is the only equitable means by which changes in the Zone could be made without impairing the rights established in the Annexation Agreement; particularly when the primary burden of the proposed changes to the I-3 Zone would fall disproportionately on our Property, as opposed to evenly throughout the Park. Such unequal treatment would be inconsistent with the approach of the Annexation Agreement, which considers the entire land area of the Park as a unity for development purposes.

Obviously, should changes to the I-3 occur which clearly exclude application to the Property, the negative effects that we foresee might no longer be an issue of disagreement. However, under the current format, we have no alternative but to strongly oppose the proposal because of its severe adverse effects on our Property, including both value and future development and/or redevelopment.

We look forward to working cooperatively with the City, as we have since our acquisition of the Property and the conveyance of Part of Lot 3, Block B to the City for its planned Aquatic Center, in seeking to assure that the GE Technology Park remains a prime development site in the City. We continue to seek a program of development which presents advantages to the public and the

Mr. Fred Felton and  
Mr. Greg Ossont  
November 8, 2005  
Page 4

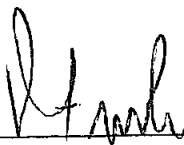
property owners over and above the existing uses and the potential of the current I-3 Zone.

Thank you for your consideration of these comments. Please do not hesitate to contact us if you wish to discuss this matter further.

Very truly yours,

Edison Tech, LLC

By: Finmarc Management, Inc., as Agent on  
behalf of Edison Tech LLC

By: \_\_\_\_\_

David B. Fink, CSM  
President

cc: William Kominers, Esquire  
Mr. David Humpton  
Mr. Tony Tomaselo

**From:** <richardarkin@aol.com>  
**To:** <skatz@gaitthersburgmd.gov>, <gedens@mckennalong.com>, <SESMA@aol.com>, <hmarraffa@starpower.net>, <salster@gaitthersburgmd.gov>, <jschlichting@jbg.com>  
**Date:** 01/17/2006 6:22:22 AM  
**Subject:** Hearing: T-375 and T-376

Your Honor and Members of the City Council:  
Mr. Chairman and Members of the Planning Commission:

I am writing to comment on two items on tonight's hearing agenda:

1. Joint - T-375, Proposal to Amend Chapter 24 of the City Code Entitled "Zoning," Article III, Entitled, "Regulations Applicable to Particular Zones," Division 14, Entitled, "I-1 Zone, Light Industrial," Division 15, Entitled, "I-3 Zone, Industrial and Office Park," and to Correct Typographical Errors and to Require Adherence to Additional Regulations When Building in an Industrial Zone That Abuts Residential Uses; and

2. Joint - T-376, Proposal to Amend Chapter 24 of the City Code, Entitled, "Zoning," Division 19, Entitled, "MXD Zone, Mixed Use Development," Section 24-160d.1, Entitled, "Purposes and Objectives," Section 24-160d.2, Entitled, "Minimum Location and Development Requirements," and Section 24-160d.9, Entitled, "Application and Processing Procedures," so as to Require Smaller Parcels to Demonstrate Compatibility With Adjacent MXD Parcels Through Detailed Sketch Plans, Provide Internal and External Compatibility Among MXD Parcels While Not Requiring All Uses at All MXD Parcels.

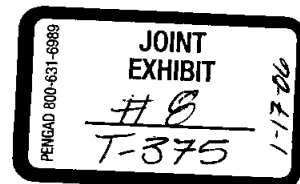
Both proposals appear to have been generated from discussions at a Joint Work Session to discuss the G.E. Technology Park Special Study Area of the Master Plan update on Monday, November 28, 2005. No final decisions came out of that worksession and there was no clear direction to staff during the public portion of the meeting to generate such text amendments. Moreover, the record remains open on the master planning exercise for that special study area and no final decisions have been made that would require zoning actions or amendments for implementation. Further, despite staff's assertion to the contrary in the "supporting background" section of the staff reports, there was no true discussion of the two text amendments at the worksessions. Finally, the sudden presence of these proposals on the hearing agenda would seem to short-circuit decisionmaking in the planning process for this tract.

Thus, it seems at best that the proposed text amendments are both extremely premature and quite prejudicial.

For these reasons, as well as other policy concerns, I strongly oppose both proposed amendments.

Further, I would request their withdrawal at this time and ask that any further submission of text amendments or zoning action designed to implement a plan for this special study area await clearer direction and decisionmaking at the end of the process.

Sincerely,



Richard L. Arkin  
121 Selby Street  
Gaithersburg, MD 20878

**CC:** <gossont@gaitersburgmd.gov>, <DHumpton@gaitersburgmd.gov>,  
<cityhall@gaitersburgmd.gov>, <richardarkin@aol.com>, <rarkin@cvm.fda.gov>

**From:** Greg Ossont  
**To:** Kirk Eby; Myriam Gonzalez; Rob Robinson  
**Date:** 01/20/2006 9:22:08 AM  
**Subject:** Fwd: Re: Text Amendment Cover Sheets

for records on get, t375 and t376. thanks all.

Greg Ossont, Director  
Planning and Code Administration

301-258-6330  
301-258-6336 FAX

31 South Summit Avenue  
Gaithersburg, Maryland 20877

gossont@gaithersburgmd.gov -- <http://www.gaithersburgmd.gov>

The opinions expressed in this message are not necessarily those of the City of Gaithersburg Staff, Mayor or Council

>>> <RichardArkin@aol.com> 01/20/2006 12:43:17 AM >>>

Mr. Ossont:

I appreciate your note. I still believe that my comments are appropriate and again request that they be included in the record and that appropriate responses be issued.

Please advise if the closing date has been extended beyond that which was already announced and if the Council has made any decision on holding a Town meeting, as requested by Jim Wakefield and me, or any other further planning exercise.

Thank you very much.

Dick Arkin

In a message dated 1/19/2006 3:39:31 P.M. Eastern Standard Time, [GOssont@gaithersburgmd.gov](mailto:GOssont@gaithersburgmd.gov) writes:

Mr. Arkin:

Please note the cover sheets for text amendments T-375 and T-376 have been revised to accurately reflect the date of the work session. A point of correction was made during the public hearing for each text amendment as well.

Greg Ossont, Director  
Planning and Code Administration

301-258-6330  
301-258-6336 FAX



**IX. FROM THE CITY MANAGER**

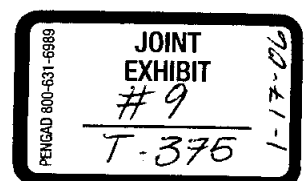
1. Updated the Mayor and City Council on the closing of the record for MP-2-04, GE Tech Park Special Study Area. He stated that at the Mayor and City Council meeting held on January 3, 2006, it was announced that the record would close on Wednesday, January 11, 2006. City Attorney Borten informed Mr. Humpton that a motion should have been done by the City Council to close the record. He stated that due to the error, the record will remain open. He announced that staff prepared a press release and posted on the website that the record will remain open to receive additional comments. He further stated that several correspondences were received asking that the record stay open for various reasons. Mayor Katz suggested that the record be held open indefinitely and asked staff to investigate the possibility of a town hall meeting.
2. Reported that the Day Laborer Task Force is conducting a meeting tonight, January 17, 2006. At their last meeting, the Task Force interviewed members of the previous ad hoc work group which is one of the charges of the Task Force. He stated that additional information is available on the City's website at [www.gaithersburgmd.gov](http://www.gaithersburgmd.gov).
3. Announced the City held a Council in the Communities meeting with the Quince Orchard Park community.
4. Received information from a citizen in the Kentlands about disturbing behavior in the area. Mr. Humpton read a police report regarding graffiti and vandalism in the area. He stated that he asked Police Chief Viverette to further investigate the matter.

**X. PUBLIC HEARINGS**

1. **Joint – T-375, Proposal to Amend Chapter 24 of the City Code Entitled "Zoning," Article III, Entitled, "Regulations Applicable to Particular Zones," Division 14, Entitled, "I-1 Zone, Light Industrial," Division 15, Entitled, "I-3 Zone, Industrial and Office Park," and to Correct Typographical Errors and to Require Adherence to Additional Regulations When Building in an Industrial Zone That Abuts Residential Uses**

Planning and Code Administration Director Ossont stated that the joint public hearing was advertised in the *Gaithersburg Gazette* issues of January 4 and 11, 2006. He stated that a work session was held on September 12, 2005, and is sponsored by the Mayor and City Council. He stated that staff has reviewed the I-1 and I-3 zones for existing language that ensures compatible development in industrial zones that could potentially effect existing residential development. He stated that the proposed text amendments are limited to two sections of the City Code. He further stated that the proposed amendments increase setbacks and apply additional development standards when developing properties abutting or adjacent to residential properties.

Council Member Alster questioned the language generally compatible for development. MR. Ossont responded that general compatibility would have to be demonstrated upon the application with the Planning Commission for the review of the design codes. Council Member Marraffa questioned the effects on properties with annexation agreements. City Attorney Borten stated that if an annexation agreement is in place, the City would have to look at the terms of the agreement, review what may be affected and whether an amendment to the agreement is necessary. Planning Commissioner Hopkins questioned why tenting was not eliminated with the increased setback and maximum height of a setback. Mr. Ossont stated that tenting would not be eliminated unless it is abutting a residential use. He further stated that it is more of a density issue and not a height issue.



Speaker from the public:

*Marc Solomon, Finmarc Management, Inc., 4733 Bethesda Avenue, owner of warehouse, stated that the warehouse is currently zone I-3 as part of the GE Special Study Area. He submitted a letter to the City Council, Planning Commission and staff expressing concerns of the rezoning and impact of the his property.*

There were no other speakers at the hearing.

Motion was made by Commissioner Levy, seconded by Commissioner Kaufman, that the Planning Commission record on T-375, be held open indefinitely.

Vote: 5-0

Motion was made by Council Member Alster, seconded by Council Member Sesma, that the City Council record on T-375, be held open indefinitely.

Vote: 3-0

2. **Joint - T-376, Proposal to Amend Chapter 24 of the City Code, Entitled, "Zoning," Division 19, Entitled, "MXD Zone, Mixed Use Development," Section 24-160d.1, Entitled, "Purposes and Objectives," Section 24-160d.2, Entitled, "Minimum Location and Development Requirements," and Section 24-160d.9, Entitled, "Application and Processing Procedures," so as to Require Smaller Parcels to Demonstrate Compatibility With Adjacent MXD Parcels Through Detailed Sketch Plans, Provide Internal and External Compatibility Among MXD Parcels While Not Requiring All Uses at All MXD Parcels**

Planning and Code Administration Director Ossont stated that the joint public hearing was advertised in the *Gaithersburg Gazette* issues of January 4 and 11, 2006. A joint work session was held on September 12, 2005, for the proposed amendment and is sponsored by the Mayor and City Council. He stated that the requirements of the Mixed Use Zone (MXD) have been discussed during a number of public hearings and work sessions. He stated that the discussions focused on compatibility and whether or not development projects under the MXD zone should require a mix of uses within all land uses components of a multi-use project. He stated that staff has reviewed the requirements and standards. The propose language more clearly defines the objectives and requirements of future development with the MXD Zone and also clarifies requirements for single parcels of less than 10 acres.

There were no speakers at the hearing.

Motion was made by Commissioner Kaufman, seconded by Commissioner Winborne, that the Planning Commission record on T-376, be held open indefinitely.

Vote: 5-0

Motion was made by Council Member Sesma, seconded by Council Member Alster, that the City Council record on T-376, be held open indefinitely.

Vote: 3-0

# MAYOR & COUNCIL AGENDA COVER SHEET

**MEETING DATE:**

September 12, 2005

**CALL TO PODIUM:**

Greg Ossont, Director  
Planning and Code  
Administration

**RESPONSIBLE STAFF:**

Greg Ossont, Director  
Planning and Code  
Administration

Cathy Borten, City Attorney

**AGENDA ITEM:**

(please check one)

	Presentation
	Proclamation/Certificate
	Appointment
	Public Hearing
	Historic District
	Consent Item
	Ordinance
	Resolution
	Policy Discussion
<input checked="" type="checkbox"/>	Work Session Discussion Item
	Other:

**PUBLIC HEARING HISTORY:**

(Please complete this section if agenda item  
is a public hearing)

Introduced	
Advertised	
Hearing Date	
Record Held Open	
Policy Discussion	

**TITLE: JOINT WORK SESSION**

Discussion on Proposed Text Amendments to the I-1, I-3 and  
MXD Zones

**SUPPORTING BACKGROUND:**

Staff has been asked to review the Industrial Use zones and how each zone relates to adjacent and abutting properties. Specifically, staff reviewed the I-1 and I-3 zones for existing language that ensures compatible development in industrial zones that would potentially effect existing residential development.

Staff has identified specific areas within the I-1 and I-3 zones where language could be amended and in sections where additional language and standards could be introduced to ensure compatible and harmonious new development and redevelopment in these industrial zones.

In addition, the Mixed Use Zone (MXD) has been discussed during a number of public hearings and work sessions as it relates to the internal and external compatibility of adjacent properties.

As you are aware, the City's most successful projects were developed under the MXD zone. In order to ensure future mixed use developments are of continued success, staff has identified certain sections within the code that will foster quality development in the future.

Specifically, staff has reviewed the requirements and standards for development within MXD properties and the interpretation that development under the MXD zone must consist of a "multi-use development" and not be limited to single uses. Staff has provided additional language that more clearly defines the objectives and requirements of future development within the MXD zone.

Lastly, staff has developed language that would provide expirations for approved schematic development plans.

**DESIRED OUTCOME:**

Provide staff guidance.

PENNSA 800-631-6989

JOINT  
EXHIBIT

#10

T-375

1-17-06

MEMORANDUM TO: Mayor and City Council

VIA: David B. Humpton, City Manager *DB*

FROM: Greg Ossont, Director  
Planning and Code Administration *GO*

DATE: September 6, 2005

SUBJECT: I-1/I-3 Zones – Text Amendments

Attached please find a draft text amendment for revisions to the I-1 and I-3 Zones. The draft text amendment addresses issues raised over the past several months related to the compatibility of industrial zoned properties abutting to residential properties. In summary, the draft implements “development standards” for properties abutting residential use properties.

The development standards increase the required setbacks, set height limitations and provide language to require compatible development and design codes that regulate materials, use and the location of structures and buildings. The proposed amendments would apply in both the I-1 and I-3 zones.

I hope this information is helpful. If you have any questions, please contact me at 301-258-6330.

Attachments

Ordinance No. \_\_\_\_\_

AN ORDINANCE TO AMEND CHAPTER 24 OF THE CITY CODE,  
ENTITLED "ZONING," ARTICLE III, ENTITLED, "REGULATIONS APPLICABLE TO  
PARTICULAR ZONES," DIVISION 14, ENTITLED, "I-1 ZONE, LIGHT INDUSTRIAL,"  
DIVISION 15, ENTITLED, "I-3 ZONE, INDUSTRIAL AND OFFICE PARK," TO  
CORRECT TYPOGRAPHICAL ERRORS AND TO REQUIRE ADHERENCE TO  
ADDITIONAL REGULATIONS WHEN BUILDING IN AN INDUSTRIAL ZONE THAT  
ABUTS RESIDENTIAL USES

Text Amendment **T-375**

BE IT ORDAINED, by the Mayor and City Council of the City of Gaithersburg,  
in public meeting assembled, that Chapter 24 of the City Code, Article III, Divisions 14  
and 15 are hereby amended to read as follows:

**ARTICLE III. REGULATIONS APPLICABLE TO PARTICULAR ZONES.**

\* \* \* \* \*

**DIVISION 14, I-1 ZONE, LIGHT INDUSTRIAL**

\* \* \* \* \*

**Sec. 24-139. Setback requirements.**

Where land in the I-1 Zone adjoins a lot line of land [in a residential] zoned residential [in a] and containing a residential dwelling unit, no building in this zone shall be constructed within [thirty (30)] seventy-five (75) feet of such lot line.

\* \* \* \* \*

**Sec. 24-139A. Development Standards When Abutting Residential Uses**

Even if not otherwise developing property under the TND option as allowed in Section 24-141(C) herein, the following development standards shall apply to uses in the I-1 zone when such properties either abut or are adjacent to property used for residential use:

**Boldface**  
Underlining  
[Single boldface brackets]  
Double underlining  
[[Double boldface brackets]]  
\*\*\*

*Heading or defined term.*  
*Added to existing law by original bill.*  
*Deleted from existing law by original bill.*  
*Added by Amendment.*  
*Deleted from existing law or the bill by amendment.*  
*Existing law unaffected by bill.*

1. Buildings and structures shall be setback a minimum of seventy five (75) feet from any property line, with the exception of all front yards, which shall have a thirty (30) foot minimum setback.
2. Buildings shall not exceed forty-five (45) feet in height.
3. Development shall be generally compatible with existing, developed portions of surrounding properties.
4. The design code requirements of the TND option, set forth in section 24-22.3(f) shall apply, any references to minimum unit numbers therein notwithstanding.

\* \* \* \* \*

#### **DIVISION 15. I-3 ZONE, INDUSTRIAL AND OFFICE PARK**

\* \* \* \* \*

#### **Sec. 24-143. Uses permitted by right.**

The following uses are permitted by right in the I-3 Zone:

- (1) All uses permitted by right in the [I-3] E-1 Zone.

\* \* \* \* \*

- (11) Telecommunications facilities and monopoles located entirely within an existing structure or located on the rooftop of an existing structure other than a single-family dwelling unit, subject to the requirements of section 24-167A[(C)] (D) (1).

\* \* \* \* \*

#### **Sec. 24-149A. Development Standards When Abutting Residential Uses**

Even if not otherwise developing property under the TND option as allowed in Section 24-150 herein, the following development standards shall apply to uses in the I-3 zone when such properties either abut or are adjacent to property used for residential use:

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by Amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
***	<i>Existing law unaffected by bill.</i>

1. Buildings and structures shall be setback a minimum of seventy five (75) feet from any property line, with the exception of all front yards, which shall have a thirty (30) foot minimum setback.
2. Buildings shall not exceed forty-five (45) feet in height.
3. Development shall be generally compatible with existing, developed portions of surrounding properties.
4. The design code requirements of the TND option, set forth in section 24-22.3(f) shall apply, any references to minimum unit numbers therein notwithstanding.

ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2005 by the City Council of Gaithersburg, Maryland.

\_\_\_\_\_  
SIDNEY A. KATZ, MAYOR and  
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this \_\_\_\_ day of \_\_\_\_\_, 2006. APPROVED by the Mayor of the City of Gaithersburg, this \_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
Sidney A. Katz, Mayor

THIS IS TO CERTIFY that the foregoing ordinance as adopted by the City Council of Gaithersburg, in public meeting assembled, on the \_\_\_\_ day of \_\_\_\_\_, 2006, and that the same was approved/vetoed by the Mayor of the City of Gaithersburg on the \_\_\_\_ day of \_\_\_\_\_, 2006. This Ordinance will become effective on the \_\_\_\_ day of \_\_\_\_\_, 2006.

\_\_\_\_\_  
David B. Humpton, City Manager

**Boldface**

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

\*\*\*

*Heading or defined term.*

*Added to existing law by original bill.*

*Deleted from existing law by original bill.*

*Added by Amendment.*

*Deleted from existing law or the bill by amendment.*

*Existing law unaffected by bill.*

## DIVISION 14. I-1 ZONE, LIGHT INDUSTRIAL

**Sec. 24-136. Uses permitted by right.**

The following uses are permitted by right in the I-1 Zone:

**A. OFFICE AND RESEARCH USES:**

- (1) Clinic, medical or dental.
- (2) General office.
- (3) Research, experimental or testing laboratories.

**B. CULTURAL, ENTERTAINMENT AND RECREATIONAL:**

- (1) Employee recreational facilities (conditional use).
- (2) Health clubs.
- (3) Libraries, science or technical.
- (4) Place of religious worship.
- (5) Commercial parks and other places of outdoor amusements, including golf courses, miniature golf courses, driving ranges, carnivals and fairs, subject to the following requirements:
  - (a) When such use abuts the side and rear line of a lot in a residential zone, a solid wall or substantial solid fence at least six (6) feet in height shall be constructed and maintained along such lot line.
  - (b) Lighting, including permitted illuminating signs, shall be arranged so as not to reflect or cause glare into any residential zone.
  - (c) When such use occupies a corner lot, the ingress or egress driveways shall be located at least fifty (50) feet from the intersection of the front and side street lines of the lot, and such driveways shall not exceed twenty-five (25) feet in width. Driveway entrances and exits shall not be located directly across a street or alley nor less than twenty-five (25) feet from residential property.
- (6) Adult-oriented businesses subject to the following requirements:
  - (a) Goods, merchandise, materials displayed, exhibited, sold, rented or bartered or live performances must not be visible from outside the establishment. Any establishment devoting less than ten percent (10%) of its total floor area to adult-oriented materials defined in Section 24-1 must be located within an enclosed room or area, separated from the general retail areas with appropriate signage identifying the adult content of the room or area.
  - (b) Access must be prohibited to any person under the age of 21 years.
  - (c) The business must be located at least one (1000) thousand feet away from any property: (i) located in a residential zone or (ii) on which a church or religious facility, school, library, park, playground, recreational facility,



ADOPTED this \_\_\_\_ day of \_\_\_\_\_, 2005 by the City Council of Gaithersburg, Maryland.

\_\_\_\_\_  
SIDNEY A. KATZ, MAYOR and  
President of the Council

DELIVERED to the Mayor of the City of Gaithersburg, Maryland, this \_\_\_\_ day of \_\_\_\_\_, 2005. APPROVED by the Mayor of the City of Gaithersburg, this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Sidney A. Katz, Mayor

THIS IS TO CERTIFY that the foregoing ordinance as adopted by the City Council of Gaithersburg, in public meeting assembled, on the \_\_\_\_ day of \_\_\_\_\_, 2005, and that the same was approved/vetoed by the Mayor of the City of Gaithersburg on the \_\_\_\_ day of \_\_\_\_\_, 2005. This Ordinance will become effective on the \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
David B. Humpton, City Manager

**Boldface**

Underlining

[Single boldface brackets]

Double underlining

[[Double boldface brackets]]

\*\*\*

*Heading or defined term.*

*Added to existing law by original bill.*

*Deleted from existing law by original bill.*

*Added by Amendment.*

*Deleted from existing law or the bill by amendment.*

*Existing law unaffected by bill.*

daycare center or where another adult-oriented business is located. The distance must be measured in a straight line from the nearest point of the boundary of the property upon which the business is located to the nearest point of a boundary line to the uses described in subsection (6)(c)(i) and (ii) hereinabove.

(d) The business may operate only between the hours of 9:00 am and 9:00 pm.

C. PRODUCTION/MANUFACTURING/ASSEMBLY/PROCESSING:

- (1) Aircraft/satellite parts.
- (2) Bottling plant, such as dairy and soft drink products.
- (3) Cabinetmaking/carpentry.
- (4) Cosmetics, drugs, perfumes, pharmaceuticals, toiletries and products resulting from biotechnical and biogenetic research and development.
- (5) Electroplating and manufacturing of small parts, such as coils, condensers, transformers and crystal holders.
- (6) Ice manufacturing and storage plant.
- (7) Lumber yard, including planing, milling and other processing.
- (8) Machine parts, components, instruments and devices.
- (9) Machine tools manufacture, scientific and testing apparatus.
- (10) Manufacture, compounding, processing or packaging of food and food products, other than vinegar and yeast, but not including the rendering or refining of fat or oil, or the production of cosmetics, toiletries or pharmaceuticals or the operation of abattoirs.
- (11) Manufacture, compounding or assembling of articles using the following prepared materials: bone or shell, cellophane, fur, glass, leather, plastics, precious or semiprecious metals or stones, rubber, textiles or cloth products, tobacco or wood or wood products.
- (12) Manufacture of ceramic products, excluding building materials, using only previously pulverized clay and kilns fired by electricity or gas.
- (13) Manufacture or assembling from prepared material of the following: musical instruments, clocks or watches, toys or novelties, electrical devices, light sheet metal products and office equipment.
- (14) Medical, scientific or technical instruments, devices and equipment.
- (15) Metal and steel fabricators.
- (16) Modular/mobile homes.
- (17) Paint without boiling.
- (18) Paper products.
- (19) Semiconductors, microchips, circuits and circuit boards.

(20) Stoneworks.

(21) Yeast, mold and other natural products necessary for medical and biotechnical research and development.

**D. RETAIL AND WHOLESALERS:**

(1) Aircraft parts and service.

(2) Antiques.

(3) Building material sales yard, including the sale of rock, sand, gravel and the like as an incidental part of the main business, and contractors' equipment storage yard and plant.

(4) Bakers, including the retail sale of goods baked on the premises, provided such use is located within the Olde Towne District, as defined in section 24-161 of this Code.

(5) Computers and accessories.

(6) Furniture.

(7) Home improvement suppliers and distributors, selling or distributing hardware, plumbing supplies, paint, wallpaper, lighting fixtures, carpet, garden supplies, plant nursery products and furniture.

(8) Personal services for employees.

(9) Pet/livestock feeds.

**E. SERVICES:**

(1) Automobile, truck and transport vehicle rental.

(2) Blacksmith.

(3) Cabinet shops, upholstery shops and fabric shops.

(4) Dry cleaning.

(5) Duplicating.

(6) Laundry plants.

(7) Motor vehicle paint and repair shops and sale of motor vehicle parts.

(8) Motor vehicle upholstery.

(9) Plumbing, heating and air conditioning distribution and repair.

(10) Printing and publishing.

(11) Tin smithing/roofing.

(12) Trade/technical schools.

**F. TRANSPORTATION, COMMUNICATION AND UTILITIES:**

(1) Electric power transmission and distribution lines, overhead and underground.

- (2) Public utility uses, such as electric substations, storage or material and trucks, repair facilities, offices and electric generating plants.
- (3) Railroad tracks.
- (4) Telephone and telegraph lines.
- (5) Telephone offices, communications and telecommunications centers.
- (6) Telecommunications facilities subject to the requirements of section 24-167A(C)(1).
- (7) Trucking terminals.

G. *Warehousing, storage and distribution:*

- (1) Wholesale businesses, warehouses and nonprocessing storage and distribution uses, but not including bulk storage of chemicals, petroleum products and other flammable, explosive or noxious materials; notwithstanding the foregoing, bulk storage of petroleum products may continue in its present location as a permitted use if existing prior to the adoption of this ordinance, provided, however, that said use may not be expanded by more than ten (10) percent in volume of storage.

H. *Other uses:*

- (1) Accessory uses:
  - (a) Retail sales of products manufactured on the premises.
  - (b) Living quarters for owners, caretakers or watchmen and their families.
  - (c) Any use on the same lot or parcel as the primary use which is customarily incidental and subordinate to the principal or primary use.
- (2) Accessory structures must conform to requirement of section 24-163 of this Code.
- (3) Agricultural uses.
- (4) Bed and breakfast, subject to the requirements contained in section 24-167B.
- (5) Off-street parking.
- (6) Pipelines.
- (7) Public buildings and uses.
- (8) Satellite television antennas and towers, poles, antennas or other structures intended for use in connection with transmission or receipt of radio or television signals, or both, subject to the provisions of section 24-167A of this Code.

(Ord. No. O-4-96, 3-18-961; Ord. No. O-21-97, 11-17-97; Ord. No. O-10-02, 11-4-02; Ord. No. O-5-04, 1-20-04)

**Editor's note**—Ord. No. O-4-96, adopted Mar. 18, 1996, repealed § 24-136, which pertained to uses permitted by right and derived from Ord. No. O-2-65, Art. 3, § 1; Ord. No. O-13-72; Ord. No. O-2-74; Ord. No. O-5-75, § 5; Ord. No. O-2-76, § 1; Ord. No. O-3-88, adopted Mar. 28, 1988; Ord. No. O-17-93, adopted Nov. 15, 1993; and Ord. No. O-12-95, adopted July 10, 1995. Ord. No. O-4-96 enacted similar new provisions as herein set out.

**Sec. 24-136A. Special exception uses.**

- (1) Alcoholic beverage manufacturing.
- (2) Animal boarding places.
- (3) Automobile sales, retail and wholesale.
- (4) Child and elderly day care.
- (5) Hospital.
- (6) Motor vehicle assembly.
- (7) Private clubs.
- (8) Veterinary hospitals and clinics.
- (9) Tattoo parlors and body piercing establishments subject to the following requirements in addition to other requirements generally for approving special exceptions and compliance with conditions imposed by the City Board of Appeals:
  - (a) The business premises must not be located on property where the boundaries of the property are within one thousand (1,000) feet of the boundaries of property containing a school, church, religious facility or other tattoo parlor or body piercing establishment or any residentially zoned property including property in the MXD Zone.
  - (b) The business premises may only operate between the hours of 9:00 am and 9:00 pm.
  - (c) The business must conform to any applicable state and local health and safety regulations.
  - (d) No instruments or equipment shall be used which has not been sterilized for use on any customer or client.

(Ord. No. O-4-96, 3-18-96; Ord. No. O-10-02, 11-4-02)

**Sec. 24-137. Applicability of division to lands shown on zoning maps as I-2 Zone.**

Land shown on the official zoning map of the city in the I-2 Zone shall be governed by the regulations contained in this division.

(Ord. No. O-13-72)

**Sec. 24-138. Minimum lot width.**

Lots in the I-1 Zone shall have a minimum width of fifty (50) feet; provided, however, that any building in excess of fifteen (15) feet in height shall be on a lot with a minimum width of seventy (70) feet. Where a lot is a corner lot, or through lot containing frontage on more than

one public street, the front of the lot for the purposes of determining conformance with this requirement shall be the portion of the lot with the most immediate and direct access to a public street.

(Ord. No. O-13-72; Ord. No. O-22-87, 9-8-87)

**Sec. 24-139. Setback requirements.**

Where land in the I-1 Zone adjoins a lot line of land in a residential zone, no building in this zone shall be constructed within thirty (30) feet of such lot line.

(Ord. No. O-13-72)

**Sec. 24-140. Height restrictions.**

The maximum height of buildings in the I-1 Zone shall be forty-five (45) feet.  
(Ord. No. O-13-72)

**Sec. 24-141. Maximum lot coverage.**

No more than seventy-five (75) percent of any lot in the I-1 Zone may be occupied by buildings.  
(Ord. No. O-13-72)

**Sec. 24-141A. Frontage and access requirements.**

Buildings constructed on I-1 zoned land containing an aggregate gross floor area of twenty thousand (20,000) square feet or more shall be located on a lot having not less than seventy-five (75) feet of frontage upon an improved public roadway and direct access to that roadway.  
(Ord. No. O-22-87, 9-8-87)

**Sec. 24-141B. Open storage restrictions.**

The open storage in any yard area of goods, materials or equipment for sale or lease off-site shall be upon areas designated in an approved site plan and shall be enclosed by a sight-tight fence or planted material not less than six (6) feet in height.  
(Ord. No. O-22-87, 9-8-87)

**Sec. 24-141C. Traditional Neighborhood Design (TND) option.**

The Traditional Neighborhood Design (TND) option may be used as an alternate method of development, subject to compliance with the standards set forth in section 24-22.3 of Chapter 24 of this Code.  
(Ord. No. O-3-99, 1-19-99)

**DIVISION 15. I-3 ZONE, INDUSTRIAL AND OFFICE PARK****Sec. 24-142. Purpose of zone.**

The purpose of the I-3 Zone is to provide for parklike development of industries or offices that are relatively nuisance-free. Uses permitted in this zone are provided a healthful operating environment secure from the encroachment of commercial or residential uses, and protected from adverse effects of incompatible industries. The regulations in this zone will reduce the impact of employment centers on surrounding uses by lessening traffic congestion, protecting the health and safety of workers and residents nearby, and by preventing detrimental effects on properties adjoining or in the neighborhood.  
(Ord. No. O-2-65, Art. 3, § 1)

**Sec. 24-143. Uses permitted by right.**

The following uses are permitted by right in the I-3 Zone:

- (1) All uses permitted by right in the I-3 Zone.
- (2) Public buildings and uses subject to the following requirements:
  - (a) The minimum lot or parcel area shall be at least twenty (20) acres in size.
  - (b) No on-site parking or storage of trucks, either within a building or on the exterior, or motor vehicles other than automobiles for employees and customers of the facility are allowed.
  - (c) All parking areas shall be set back at least fifty (50) feet from any common property line or public right-of-way and shall be screened by fencing or planting at least four (4) feet in height.
  - (d) No distribution uses are allowed. For the purpose of this section "distribution uses" is defined as the primary use of the property for the collection and transfer or dispensing of personal property or equipment to public or private recipients.
- (3) Public buildings and uses.
- (4) Office buildings for professional and general business offices.
- (5) Restaurants (Class A when located within the same building which is substantially devoted to a recreational use and Class C).
- (6) Adult-oriented businesses subject to the following requirements:
  - (a) Goods, merchandise, materials sold, rented or bartered or live performances must not be visible from outside the establishment.
  - (b) Access must be prohibited to any person under the age of 21 years.
  - (c) The business must be located on property where the boundary of the property is at least 1,000 feet away from any property (i) located in a residential zone or (ii) on which a church or religious facility, school, library, park, playground, recreational facility, daycare center or where any other adult-oriented business is located. The distance must be measured in a straight line from the front entrance of the adult-oriented business to the nearest point of a boundary line to the uses described in subsection (6)(c)(i) and (ii) hereinabove.
  - (d) The business may operate only between the hours of 9:00 am and 9:00 pm.
- (7) Hospitals and associated medical facilities such as, but not limited to, medical laboratories, medical schools and convalescent homes.
- (8) Child or elderly day care facilities accommodating not more than eight (8) individuals.



- (9) Child or elderly day care facilities accommodating more than eight (8) individuals subject to restrictions on such use contained in section 24-25(4) and the following requirements:

- a. Such use within a building or structure shall be constructed and maintained with noise attenuation materials so not to emit noises in excess of a sixty-five (65) dba level into adjoining uses, common areas or public ways;
- b. Outdoor play areas and playgrounds abutting improved residential property shall only be used between the hours of 8:00 a.m. and 6:00 p.m.;
- c. Facilities accommodating more than eight (8) children but not more than twenty (20) children at any one time shall provide at least three hundred (300) square feet of gross lot or parcel area per child, and facilities accommodating more than twenty (20) children at any one time shall provide at least five hundred (500) square feet of gross lot or parcel area per child;
- d. The use shall be located and operated so that traffic will not constitute a nuisance to single-family residential areas; and
- e. That the design of the facilities will be compatible and in character with surrounding, existing and proposed residential uses.

- (10) Bed and breakfast subject to the requirements contained in section 24-167B.

- (11) Telecommunications facilities and monopoles located entirely within an existing structure or located on the rooftop of an existing structure other than a single-family dwelling unit, subject to the requirements of section 24-167A(C)(1).

(Ord. No. O-2-65, Art. 3, § 1; Ord. No. O-16-71; Ord. No. O-7-73, § 9; Ord. No. O-4-74, § 2; Ord. No. O-2-76, § 1; Ord. No. O-10-81, § 7; Ord. No. O-14-83, § 1, 7-18-83; Ord. No. O-20-87, 9-8-87; Ord. No. O-3-88, 3-24-88; Ord. No. O-5-93, 4-12-93; Ord. No. O-17-93, 11-15-93; Ord. No. O-11-96, 10-21-96; Ord. No. O-21-97, 11-17-97; Ord. No. O-2-00, 2-7-00; Ord. No. O-10-02, 11-4-02)

**Sec. 24-144. Uses permitted as special exceptions.**

The following uses are permitted in the I-3 Zone as special exceptions after approval by the board of appeals:

- (a) Amusement center as part of, and clearly accessory to, a separate primary recreational building and/or use. This use shall be subject to the standards and requirements contained in section 24-118(7) of the City Code and the following limitations:
  - (1) The accessory amusement center must be part of the original construction of a recreation establishment and not a part of a reuse of a building which is converted to recreational use.
  - (2) The building within which the amusement center is located must not be located closer than five hundred (500) feet to property zoned for, or improved with, single-family residential use.

- (3) The accessory amusement center must not be located in a building which is within one-half mile, in straight line distance, to another building containing an amusement center accessory use.

(b) Pawn shops, provided that a pawn shop is not located within one thousand (1,000) feet of the boundaries of property containing a school, church, religious facility, or any other pawnshop or any residentially zoned property, including property in the MXD Zone designated on an approved schematic development plan or sketch plan for residential use, and said use shall comply with the requirements of Chapter 44A, Montgomery County Code as amended. Pawnshops existing as of the effective date of this amendment shall conform to the provisions of section 24-167C(2) of the City Code.

(c) Tattoo parlors and body piercing establishments subject to the following requirements in addition to other requirements generally for approving special exceptions and compliance with conditions imposed by the City Board:

- (1) The business premises must not be located on property where the boundary of the property is located within one thousand (1,000) feet of the boundaries of property containing a school, church, religious facility or other tattoo parlor or body piercing establishment or any residentially zoned property including property in the MXD Zone.
  - (2) The business premises may only operate between the hours of 9:00 am and 9:00 pm.
  - (3) The business must conform to any applicable state and local health and safety regulations.
  - (4) No instruments or equipment shall be used which has not been sterilized for use on any customer or client.
- (Ord. No. O-2-65, art. 3, § 1; Ord. No. O-8-95, 6-5-95; Ord. No. O-2-98, 3-2-98; Ord. No. O-4-98, 4-6-98; Ord. No. O-10-02, 11-4-02)

#### **Sec. 24-145. Lots.**

Lots in the I-3 Zone shall have a minimum area of two (2) acres. Such lots shall have a minimum width of one hundred (100) feet.

(Ord. No. O-2-65, art. 3, § 1)

#### **Sec. 24-146. Setback requirements.**

Building and structures within an I-3 Zone shall be setback a minimum of fifty (50) feet from any property line, with the exception of all front yards, which shall have a twenty (20) foot minimum setback. If a building exceeds thirty (30) feet in height, an additional one foot shall be added to the setback requirement for each foot that the building exceeds thirty (30) feet in height.

(Ord. No. O-2-65, art. 3, § 1; Ord. No. O-19-97, 11-17-97)

**Sec. 24-147. Height restrictions.**

No building or structure in the I-3 Zone shall exceed one hundred ten (110) feet in height.  
(Ord. No. O-2-65, art. 3, § 1)

**Sec. 24-148. Lot coverage.**

Not more than twenty-five (25) percent of the net lot area of any lot in an I-3 Zone shall be covered by buildings, including accessory buildings.  
(Ord. No. O-2-65, art. 3, § 1)

**Sec. 24-149. Minimum distance between main buildings.**

The minimum distance between main buildings in the I-3 Zone shall be fifty (50) feet; provided, that if any building exceeds thirty (30) feet in height, one additional foot of separation shall be required for each foot that the building exceeds thirty (30) feet in height.  
(Ord. No. O-2-65, art. 3, § 1)

**Sec. 24-150. Traditional Neighborhood Design (TND) option.**

The Traditional Neighborhood Design (TND) option may be used as an alternate method of development, subject to compliance with the standards set forth in section 24-22.3 of Chapter 24 of this Code.  
(Ord. No. O-3-99, 1-19-99)

**DIVISION 16. I-4 ZONE, GENERAL INDUSTRIAL****Sec. 24-150A. Permitted uses.**

The following uses are permitted in the I-4 Zone:

- (1) All uses permitted in the I-1 Zone, section 24-136.
  - (2) Bulk storage and sales distribution of petroleum or chemical products, but not including the refining, processing or manufacture of such products.
- (Ord. No. O-3-82)

**Sec. 24-150B. Development and use standards.**

(1) All uses permitted in section 24-150A(1) shall be governed by the provisions set forth in sections 24-138 through 24-141.

(2) The following standards and requirements shall apply to those uses permitted pursuant to section 24-150A(2):

- (a) Minimum lot width shall be one hundred (100) feet.
- (b) No building or structure shall be erected or maintained within thirty (30) feet of any property line or within two hundred (200) feet of any residential building.
- (c) No building or structure shall exceed forty-five (45) feet in height.

- (d) No more than fifty (50) percent of any lot or parcel may be occupied with buildings or structures.
  - (e) Such structures and uses must conform to the standards and requirements of the Fire Safety Code of Montgomery County and the Basic Building Code, as adopted by the city, including the provision of adequate safety and firefighting devices.
  - (f) The use shall not result in the emission of fumes or odors of such intensity as to be detrimental to the health and welfare of the general public.
  - (g) There shall be no discharge of any petroleum or chemical product stored on the premises at any point into any public or private sewage disposal system or stream or into the ground.
  - (h) Prior to the issuance of any building or occupancy permit for such use, a site development plan shall be submitted to the city planning commission for its approval in accord with the requirements of Article V of this chapter.
- (Ord. No. O-3-82)

**Sec. 24-150C. Traditional Neighborhood Design (TND) option.**

The Traditional Neighborhood Design (TND) option may be used as an alternate method of development, subject to compliance with the standards set forth in section 24-22.3 of Chapter 24 of this Code.

(Ord. No. O-3-99, 1-19-99)

**DIVISION 17. E-1 ZONE, URBAN EMPLOYMENT**

**Sec. 24-151. Permitted uses.**

The following uses are permitted in the E-1 Zone:

- (1) Office buildings for general office purposes.
- (2) Public buildings, churches and similar uses.
- (3) Libraries and similar institutions of noncommercial nature.
- (4) Research, experimental and testing laboratories.
- (5) Manufacture, compounding, processing, assembly and retail sales of articles using prepared materials which are entirely stored within a structure.
- (6) Wholesale businesses, warehouses and similar nonprocessing storage and distribution uses, except bulk storage of chemicals, petroleum products and other inflammable, explosive or noxious materials.
- (7) Farms and other uses associated with agricultural activities.
- (8) Retail sales and consumer service establishments, incidental to and located within an office structure, limited to restaurants, drugstores, newsstands, barbershops, valet shops, specialty shops and delicatessens, banks and financial institutions.